HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI V.K. SHRIVASTAVA, J.

Misc. Appeal (C) No. 367 of 2006

Appellants
Applicants

1. Smt. Saroj Thakur, Widow of Yogesh Singh Thakur, aged about 29 years,

2. Ku. Damini Thakur, Daughter of Yogesh Singh Thakur, aged about 1 year
Both resident of Opp. Santosh Bhojnalaya, Juni Line, Bilaspur, Tahsil & Distt. Bilaspur

VERSUS

Respondents
Non-Applicants

1. Dhananjay Kaushik, S/o Latel Ram Kaushik, aged about 30 years, R/o Near Deshi Sharab Dukan, Village Sakari, Tahsil Takhatpur, Distt. Bilaspur (C.G.) (Owner – CG 10/e-2235)

2. Bajaj Alianz General Insurance Co. Ltd., through Branch Manager, Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandri, Raipur, Tahsil & Distt. Raipur (Insurance Co. Policy No. 100000934852)

Present: Shri Ravindra Agrawal, learned counsel for the appellants.

ORAL ORDER
(Passed on13th November, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

In this appeal preferred by the legal representatives of the deceased-driver of one of the motor vehicles involved in the accident. The accident had taken place on account head on collision between two vehicles. On behalf of the other vehicle no witness was examined, but, on behalf of the appellants-claimants a witness was examined, but the said witness in his evidence deposed that the accident had taken place due to head on collision of the two vehicles. The jurisdictional police having investigated into the cause of accident have registered the cases against both the drivers contending that both the drivers were of guilty of culpable negligence in driving the vehicles involved in the accident. In the facts and circumstances of the case, the M.A.C.T.

dealing with the question of negligence has held that the drivers of both the vehicles involved in the accident had contributed negligence in causing the accident and accordingly reduced the compensation payable to the appellants by 50%.

It was, however, contended by the learned counsel for the appellants that the witness examined on behalf of the appellants has deposed that the accident had taken place because of rash and negligent driving on the part of the driver of the other vehicle, and in that view of the matter, the M.A.C.T. is not justified in reducing the compensation by 50% holding that the Yogesh Singh Thakur was also negligent in driving the motor vehicle. It is not that the M.A.C.T. should rest its factual finding on isolated assertion of the witness. The MACT has taken into account the totality of the evidence laid before it as a whole. We are satisfied that the factual finding recorded by the MACT is not perverse for want of legal evidence. On the other hand, the finding recorded by the MACT is one plausible view. No ground is made out for interference. The appeal is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Kamde